

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:10-HC-2151-BO

UNITED STATES OF AMERICA,)
)
 Petitioner,)
)
 v.)
)
 WALTER WOODEN,)
)
 Respondent.)

ORDER

This cause comes before the Court following remand from the court of appeals. Petitioner (the government) instituted this civil action pursuant to Title 18 of the United States Code, Section 4248(a), seeking to commit respondent Walter Wooden as a “sexually dangerous person” pursuant to the Adam Walsh Child Protection and Safety Act of 2006 (Adam Walsh Act or the Act). After an evidentiary hearing, this Court held first that § 4248 violates equal protection as applied to Mr. Wooden, second that the government has applied section § 4248 in a manner that had deprived Mr. Wooden of due process of law, and third that the government had not satisfied its burden to show that Mr. Wooden is sexually dangerous to others pursuant to the Adam Walsh Act [DE 68].

The government appealed, and by opinion filed September 6, 2012, a panel of the court of appeals reversed the Court’s judgment and remanded the matter for reconsideration. In its opinion, the court of appeals held that this Court erred in its conclusion that the Act as applied to Mr. Wooden violated due process and equal protection. *United States v. Wooden*, 693 F.3d 440, 451 (4th Cir. 2012); *see also United States v. Timms*, 664 F.3d 436 (4th Cir. 2012). The court of appeals further


reversed as clearly erroneous the Court's determination that Mr. Wooden does not suffer from a serious mental disorder and that, even if he did, he would not have serious difficulty refraining from sexually violent conduct or child molestation if released. *Wooden*, 693 F.3d at 456, 462. Mandate having issued [DE 83], jurisdiction again lies in this Court and it and may proceed to reconsider this matter on remand. *See e.g. Ostrer v. United States*, 584 F.2d 594, 598 (2nd Cir. 1978).

After having heard the evidence and considered the arguments at the evidentiary hearing, the Court, making decisions as a fact finder as to the credibility and weight of the evidence, found that the government had not satisfied its burden to show that Mr. Wooden is sexually dangerous under the Act. The court of appeals having reversed and found clearly erroneous such finding, the law of the case in this matter prescribes that on those issues previously found in favor of Mr. Wooden and against the government, the government now prevails.¹ *See e.g. LaShawn A. v. Barry*, 87 F.3d 1389, 1393 (D.C. Cir. 1996) (law-of-the-case doctrine provides that “the *same* issue presented a second time in the *same case* in the *same court* should lead to the *same result*.”); *see also TFWS, Inc. v. Franchot*, 572 F.3d 186, 191 (4th Cir. 2009) (citation omitted) (“As a practical matter, then, once the decision of an appellate court establishes the law of the case, it must be followed in all subsequent proceedings in the same case in the trial court or on a later appeal”); *United States v. Bell*, 5 F.3d 64, 67 (4th Cir. 1993) (internal quotation and citation omitted) (“when [the court of appeals] remands for further proceedings, a district court must . . . implement both the letter and the spirit of the mandate, taking into account [the court of appeals’] opinion and the circumstances it embraces.”).

¹The Court's earlier holding that Mr. Wooden had engaged in acts of child molestation and that the government had thus satisfied its burden as to the first element of the relevant inquiry was not considered on appeal and therefore has not been disturbed.

Therefore, having carefully considered and now following the court of appeals' thorough examination of the evidence and its conclusions based thereon, the Court holds that Mr. Wooden does currently suffer from a serious mental disorder, namely pedophilia, and finds that he will have serious difficulty refraining from sexually violent conduct or child molestation if released. Accordingly, as the government has satisfied its burden to show that Mr. Wooden is sexually dangerous to others as defined by the Adam Walsh Act, respondent, Walter Wooden, is hereby committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4248. Judgment shall be entered in favor of petitioner and against respondent.

SO ORDERED, this 12 day of December, 2012.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE